

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10, SUBREGION 11**

SSB MANUFACTURING COMPANY¹

Employer

and

Case 10-RC-274633

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 71**

Petitioner

DECISION AND DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Brotherhood of Teamsters, Local 71.

I. INTRODUCTION

On March 25, 2021,² International Brotherhood of Teamsters, Local 71 (“the Petitioner”) filed a representation petition pursuant to Section 9(c) of the National Labor Relations Act, seeking to represent certain employees of SSB Manufacturing Company a/k/a Serta Simmons Bedding (“the Employer”) at its plant in Charlotte, North Carolina. A hearing officer of the National Labor Relations Board conducted the hearing in this matter on April 14 via videoconference.

The only issue in this proceeding is whether a manual election should be held at the Employer’s Charlotte, North Carolina, facility, or whether the election should be conducted by mail ballot in view of the current COVID-19 pandemic. The parties are entitled to present their positions on the type, date(s), time(s), and location(s) of the election and the eligibility period, but the issues are not litigable.³ The Employer and the Petitioner waived the filing of briefs: the Employer argued that a manual election could be safely conducted on site at the Employer facilities, while the Petitioner would agree to either a mail-ballot election or a two-day manual election, as long as one of those days is a Friday. There are 13 transportation employees, consisting of drivers and yard spotters, in the petitioned-for bargaining unit (“the Unit”).

Having considered the entire record in this matter, including the parties’ oral arguments and briefs, I am directing a mail-ballot election for two reasons. First, the second situational

¹ As stipulated by the parties, the formal documents in this matter are hereby amended to the extent they do not correctly reflect the name of any party.

² All dates are for the year 2021 unless otherwise noted.

³ See *NLRB Casehandling Manual (Part Two), Representation Proceedings*, Section 11228 and Section 11301.2.

factor identified by the Board in *Aspirus Keweenaw*, 370 NLRB No. 45 (Nov. 9, 2020), is applicable here because, as of the writing of this decision, the trend in the number of positive COVID-19 cases in the Employer's locality has generally increased in the past 14 days and the percentage of test positivity has reached or exceeded five percent within the same time period.⁴ Second, the employees in this bargaining unit perform their job duties over a wide geographic area and their work schedules vary significantly, therefore they may not be reliably present at the Employer's facility for a manual election.

To give context for my discussion, I begin with facts related to the Employer's operations and the petition. I then review the Employer's proposal for a manual ballot election and the Petitioner's position. After that review, I discuss the relevant Board law, the parties' positions, and apply the relevant case law to the present matter. I conclude with my findings.

II. FACTS

The Petitioner seeks to represent a unit of all full-time and regular part-time driver and yard spotter employees at the Employer's Charlotte facility. The parties have stipulated that the petitioned-for unit is appropriate for bargaining. There are approximately 13 employees in the petitioned-for unit.

The Employer is a Delaware corporation with a facility located in Charlotte, Mecklenburg County, North Carolina. At its Charlotte facility, the Employer is engaged in the business of producing and delivering mattresses. The Employer's Charlotte facility has remained open during the COVID-19 pandemic. At hearing, the Employer presented extensive testimony and evidence regarding the Employer's policies and procedures related to safe working conditions at the plant. The Employer has not shut down due to COVID-19 cases at its facility, and no employees in the petitioned-for unit have reported a positive test.

The Employer employs two yard spotters. Yard spotters work at the Employer's Charlotte facility with shipping and receiving. They move trailers in and out of the dock doors and on and off the yards. There is one yard spotter on each shift. First shift is scheduled to work 6:00 AM – 2:30 PM. Second shift is scheduled to work 3:00 PM – 11:30 PM. At least one of the yard spotters has also acted as a backup driver during the pandemic on at least one occasion.

The Employer's drivers deliver mattresses to furniture stores and warehouses in many different states using tractor-trailer semi-trucks. Some of the trucks have sleeper cabs in which the drivers sleep on trips that take longer than a workday roundtrip. The Employer typically informs drivers of their schedule two to four days in advance, striving for about three days' notice. However, drivers receive their routes from the Employer by text message the evening before and may get between 10 and 14 hours of notice of their destination.

⁴ In a recent unpublished Decision and Order, the Board confirmed that under the second *Aspirus* factor the proper analysis is whether the number of new confirmed cases reflects an increasing trend over the last 14 days, or whether the positivity rate is over 5 percent during that time period. *Hitachi Rail Honolulu JV*, 20-RC-269153 (April 8, 2021) (unpublished).

Drivers' hours vary based on load availability and destination. There are not usually more than three or four drivers together at the Employer's facility in a two-hour period. The earliest drivers arrive at the Employer's facility around 4:00 AM to depart on their routes. The latest drivers usually leave between 8:00 AM and 10:00 AM, though some loads do depart after 10:00 AM. Drivers typically return to the facility between 3:00 PM and 6:00 PM, but their shifts may end later depending on the distance of the delivery. Drivers are limited to 14 hours of driving time a day and average 11-12 hours a day. Drivers are encouraged to limit their stay at the Employer's facility to 30 minutes at the beginning and end of their shifts.

Drivers may have to do an overnight stay out of town because of the 14-hour daily driving limit. In addition to sleeping in their truck cabs, drivers may stay overnight in a hotel. At hearing, the Petitioner's witness, a driver, stated that he slept overnight in hotels about two nights a week on average and reported to the Employer's facility three to five times a week. Although the Petitioner's witness admitted that the Employer determines his schedule, he stated that he has stayed out of town overnight on a Sunday or Monday night and may be required to stay more than one night out of town for a delivery. The Employer did not rebut this testimony.

III. THE EMPLOYER'S PROPOSAL FOR A MANUAL ELECTION

The Employer proposes a manual election in the training room on May 17, a Monday, with two voting times – 6:00 AM to 8:00 AM and 2:00 PM to 5:00 PM. The Employer commits to complying with all relevant recommended protocols for election mechanics identified in General Counsel Memorandum 20-10, *Suggested Manual Election Protocols* (July 6, 2020) ("GC Memo 20-10"). The Employer's witness testified that, prior to the election, the Employer would provide the requisite notice as to any employees who, within the last 14 days, have tested positive for COVID-19; exhibited symptoms characteristic of COVID-19; were in contact with someone who tested positive for COVID-19; or were subject to quarantine for any reason related to COVID-19.

IV. DISCUSSION

In *Aspirus Keweenaw*, 370 NLRB No. 45 (Nov. 9, 2020), the Board reaffirmed its long-standing policy favoring manual elections and set forth a detailed framework for how Regional Directors should exercise their discretion when considering the type of election during the extraordinary circumstances presented by the COVID-19 pandemic.⁵ Specifically, the Board found that, in addition to the established circumstances in which a mail ballot election is appropriate, one of more of the following situations will normally justify a mail ballot election due to the COVID-19 pandemic:

1. The Agency office tasked with conducting the election is operating under "mandatory telework" status;

⁵ See, also, General Counsel Memorandum 21-01 *Guidance on Propriety of Mail Ballot Elections, pursuant to Aspirus Keweenaw*, 370 NLRB No. 45 (2020) (issued Nov. 10, 2020).

2. Either the 14-day trend in number of new confirmed cases of COVID-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher;
3. The proposed manual election site cannot be established in a way that avoids violating mandatory state or local health orders relating to maximum gathering size;
4. The employer fails or refuses to commit to abide by the GC Memo 20-10 protocols;
5. There is a current COVID-19 outbreak at the facility, or the employer refuses to disclose and certify its current status; or
6. Other similarly compelling circumstances.

After careful examination of the record, the parties' respective positions, Board law, and the current state of the COVID-19 virus in Mecklenburg County, in which the Employer's facility is located, I have determined that a mail ballot election is appropriate. In reaching this decision, I apply the six situations set forth in *Aspirus Keweenaw*, 370 NLRB No. 45, to the facts of this case, as well as a traditional analysis of the appropriateness of a mail ballot election when employees are scattered.

A. The Parties' Positions

The Employer points to the Board's long-held preference for manual elections as the reason for a manual election, notes that local, state, and Federal elections have been held manually since October 2020, and presents extensive testimony on the steps the Employer would take to ensure a safe manual election at its Charlotte facility. The Petitioner would prefer a mail-ballot election because the employees are scattered, but "would not oppose" a two-day manual election, scheduled for the earliest possible date, from 9:00 AM – 9:00 PM daily, with one of the voting days on a Friday. The Petitioner is willing to provide the requisite COVID-19 certifications as to its party representatives and observers in the event that I order a manual election.

B. Analysis

I recognize that the Board has traditionally preferred manual elections. *San Diego Gas & Electric*, 325 NLRB 1143, 1144 (1998). However, I am also mindful of my obligation to appropriately exercise my discretion concerning the timing and manner of the election with due consideration to safety concerns in the context of a health pandemic. Thus, it is my obligation to direct an election in this matter at the earliest practicable time and in the most responsible and appropriate manner possible under the circumstances. Based on the foregoing facts, the parties' positions, and Board law, I find that it is appropriate to direct mail-ballot elections in this case based on the current pandemic conditions in Mecklenburg County and because the employees in the Unit are scattered.

1. A Mail Ballot Election is Appropriate in This Case under an *Aspirus* Analysis

With regard to the *Aspirus* analysis under the current COVID-19 pandemic, a Regional Director who exercises his or her discretion to direct a mail ballot election when one or more of the six situations identified by the Board in *Aspirus* exists will not have abused his or her discretion. *Id.*, slip op. at 8. Therefore, I review below all six situations identified by the Board in *Aspirus* as reflected under the facts of this case. Having done so, I find that one of the situations identified by the Board in *Aspirus* supports the conclusion that mail ballot elections are appropriate in this case. Specifically, the 14-day trend in the number of new confirmed cases of COVID-19 in Mecklenburg County is generally increasing, and the percentage of positive tests in the county over the same time period has met or exceeded the 5% threshold identified by the Board in *Aspirus*. In these circumstances, I have the discretion to direct mail ballot elections. Notwithstanding the Employer's plan to conduct a safe manual election, and taking each *Aspirus* situation in turn, I find that for the health and safety of all involved, mail ballot elections should be directed because of the extraordinary circumstances of COVID-19 pandemic in Mecklenburg County at this time.

a. The Agency office tasked with conducting the election is operating under "mandatory telework" status

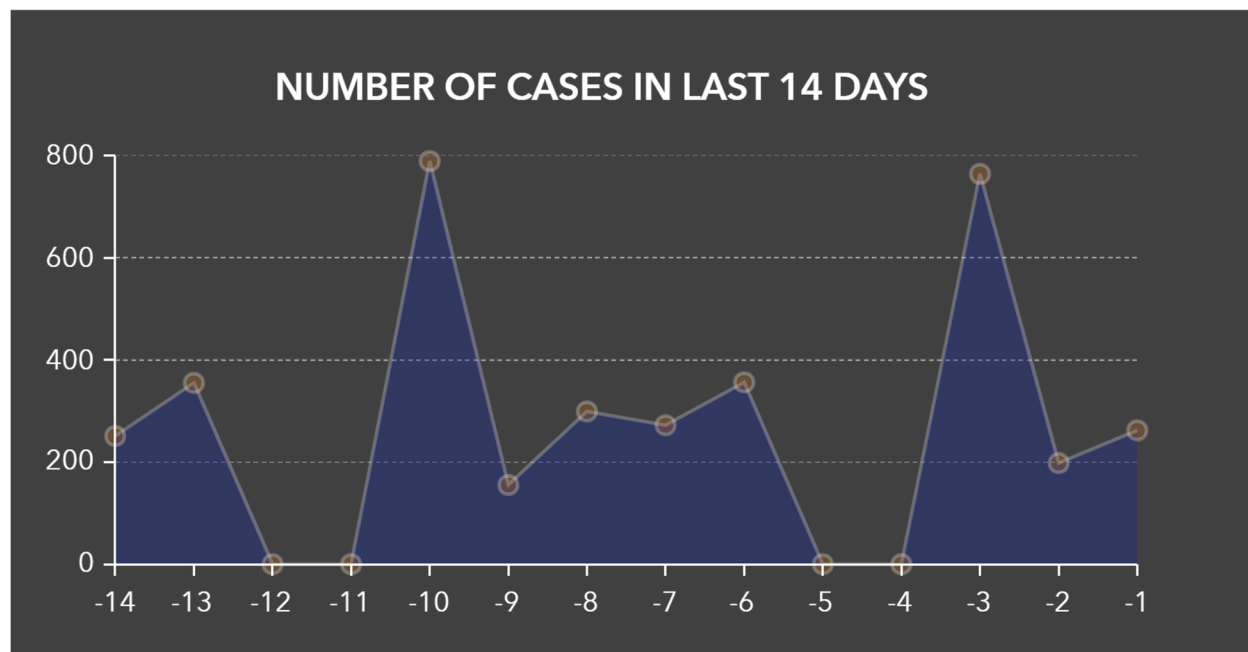
As was the case in *Aspirus*, 370 NLRB No. 45, slip op. at 5, all regional offices (including subregional and resident offices) have been on permissive, rather than mandatory, telework since mid-June 2020.

b. Either the 14-day trend in the number of new confirmed cases of COVID-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher

The *Aspirus* Board did not specifically detail how the 14-day trend in the number of new cases should be evaluated, but it did direct that "the 14-day period should be measured from the date of the Regional Director's determination, or as close to that date as available data allow" *Id.* at slip op. at 5 n. 20, and that county-level data for the potential polling place should be accessed through the "Coronavirus Resource Center" website maintained by Johns Hopkins University. *Id.* n. 24.

As of April 22, the Johns Hopkins site⁶ for Mecklenburg County showed the following 14-day trend:

⁶ Johns Hopkins University, "COVID-19 Status Report" at <<https://bao.arcgis.com/covid-19/jhu/county/37119.html>> (last accessed April 22, 2021).



The Johns Hopkins data thus indicate the 14-day trend in the number of new confirmed cases has fluctuated in the period from April 8 to April 21, but the number of such cases is higher at the end than it was at the start of the 14-day period. Expressed as a table, the 14-day case number data from Johns Hopkins⁷ is as follows:

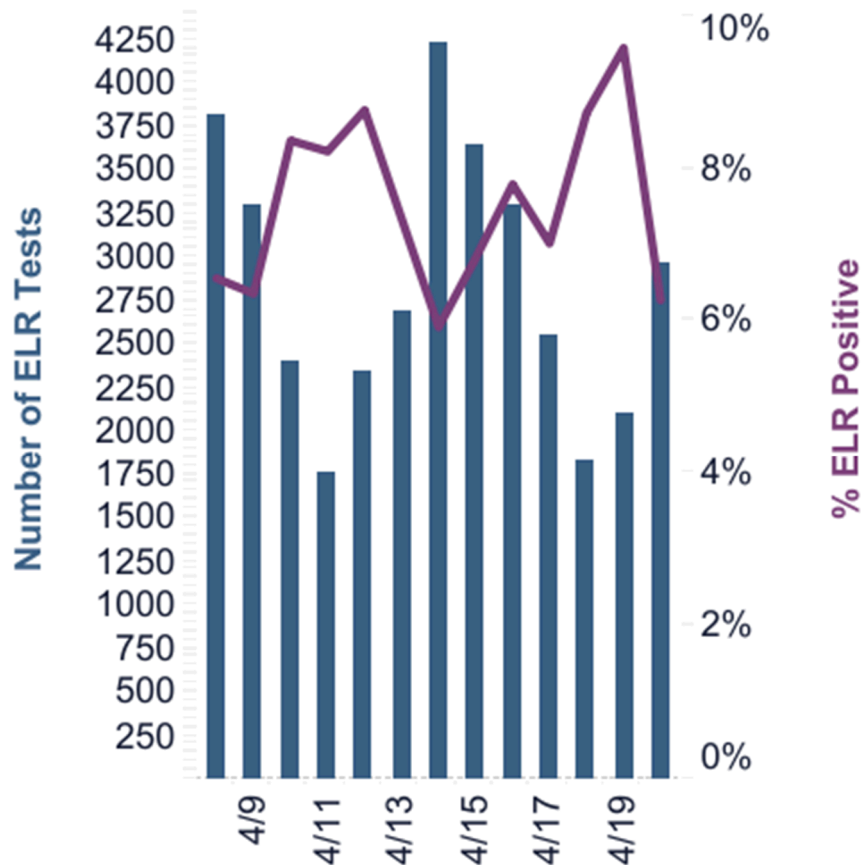
NUMBER OF CASES IN LAST 14 DAYS

| | |
|-----|-----|
| -14 | 251 |
| -13 | 355 |
| -12 | 0 |
| -11 | 0 |
| -10 | 789 |
| -9 | 155 |
| -8 | 299 |
| -7 | 272 |
| -6 | 356 |
| -5 | 0 |
| -4 | 0 |
| -3 | 764 |
| -2 | 198 |
| -1 | 262 |

Regarding the 14-day positivity rate, Johns Hopkins explains the standard cited in *Aspirus*: “On May 12, 2020 the World Health Organization (WHO) advised governments that before reopening, rates of positivity in testing (i.e., out of all tests conducted, how many came

⁷ *Id.*

back positive for COVID-19) should remain at 5% or lower *for at least 14 days*” (emphasis added). In other words, the WHO standard is not an average, and a locality with a testing positivity rate over 5% in any one of the preceding 14 days normally warrants a mail-ballot election.⁸ As of April 22, the most recent available testing positivity rate for Mecklenburg County⁹ is as follows:



The Mecklenburg County testing positivity rate has been at or above 5% on various dates during the most recently documented 13 days, and the 14-day trend in the number of new confirmed cases has generally increased within that period of time. Therefore, the second situation described in *Aspirus* exists in the present case.

⁸ Johns Hopkins University, “Which U.S. States Meet WHO Recommended Testing Criteria?” at <https://coronavirus.jhu.edu/testing/testingpositivity> (last accessed April 22, 2021).

⁹ State of North Carolina, North Carolina Department of Health and Human Services, “Testing” at <https://covid19.ncdhhs.gov/dashboard/testing>; scroll down to “Percent Positive by County”; and hover over and click Mecklenburg County (last accessed April 22, 2021). I note that Mecklenburg County Public Health data, which appears in Board Exhibit 4 for April 7, is a seven-day average compiled weekly and, as of this writing, the most recent publicly available data related to COVID-19 is as of April 14: <https://www.mecknc.gov/news/Pages/Mecklenburg-County-COVID-19-Data-for-April-14-2021.aspx> (last accessed April 22, 2021).

c. The proposed manual election site cannot be established in a way that avoids violating mandatory state or local health orders relating to maximum gathering size

On February 24, 2021, Governor Roy Cooper of the State of North Carolina issued Executive Order 195, which, in pertinent part, raised the indoor mass gathering limit to twenty-five (25) persons.¹⁰ The Order provides that mandatory face masks and other mitigation measures remain in place. Further, noting that “[a]ny scenario in which many people gather together poses a risk for COVID-19 transmission[,]” the North Carolina Department of Health and Human Services provides guidance for meeting rooms and event spaces, both indoors and outdoors¹¹ that limit maximum gathering size to 50% of capacity with appropriate six-foot distancing and masking. With regard to manufacturing workplaces, Governor Cooper’s Executive Order 204,¹² issued March 23, 2021, acknowledges that “social distancing is inherently difficult where multiple workers are together” and

all workers not participating in a respiratory protection program must wear Face Coverings when they are either within six (6) feet of another person or indoors. Notwithstanding the above, workers may remove their Face Covering if an exception applies, if they become overheated, or if they eat and drink while working.

The record does not disclose the occupancy capacity of the training room where the Employer proposes to hold the election so that I may determine whether a manual election would conflict with the North Carolina health department’s guidance. However, the Employer’s manual election proposal does not appear to violate Governor Cooper’s Executive Orders 195 or 204.

d. The employer fails or refuses to commit to abide by the GC Memo 20-10 protocols

The Employer has committed to abide by the protocols in GC Memo 20-10.

e. There is a current COVID-19 outbreak at the facility or the employer refuses to disclose and certify its current status

The Employer states that there is no current COVID-19 outbreak at its facilities and certified that, within the last 14 days of April 14, no employees at the Employer’s Charlotte facility had tested positive for COVID-19, exhibited symptoms of COVID-19, and/or were

¹⁰ State of North Carolina, Governor Roy Cooper, “Lifting The Modified Stay at Home Order and Easing Certain Restrictions on Businesses And Gatherings” at <<https://governor.nc.gov/documents/executive-order-no-195>> (last accessed April 22, 2021).

¹¹ State of North Carolina, North Carolina Department of Health and Human Services, “Interim Guidance for Meeting Rooms and Event Spaces” (March 26, 2021) at <<https://covid19.ncdhhs.gov/guidance#mass-gatherings>> (last accessed April 22, 2021).

¹² State of North Carolina, Governor Roy Cooper, “Further Easing of Restrictions on Businesses And Gatherings” at <<https://governor.nc.gov/documents/executive-order-no-204>> (March 23, 2021) (last accessed April 22, 2021).

subject to quarantine for any reason related to COVID-19, including but not limited to being in direct contact with someone who tested positive or exhibited symptoms of the virus.

f. Other similarly compelling circumstances

Aspirus allows me to also consider “other similarly compelling circumstances” in determining whether an elections should be conducted by mail ballots due to the COVID-19 pandemic. The record does not contain any evidence of such circumstances.

2. A Mail Ballot Election is Appropriate in This Case because the Bargaining Unit Employees are Scattered

Where eligible voters are scattered over a wide geographic area due to their job duties, such circumstances “normally suggest the propriety of using mail ballots.” *San Diego Gas & Electric*, 325 NLRB at 1145. Likewise, where employees are scattered in terms of their work schedules, the Board has also found mail ballots appropriate. *M & N Mail Service, Inc.*, 326 NLRB 451 (1998) (mail ballot election appropriate where drivers have a staggered work schedule and may not be scheduled to work or available to participate in an election).

Here, the record discloses that the two yard spotters work separate shifts that do not overlap. Further, the drivers may report as early as 4:00 AM and as late as after 10:00 AM and return to the Employer’s facility as early as 3:00 PM and as late as 6:00 PM – if they return at all on the same day. Rather, because their deliveries may be as far flung as “anywhere” between Florida and Pennsylvania and west to Ohio and Kentucky, drivers may not return to the Employer’s facility at all on a given workday. The record discloses that drivers may find themselves staying outside Charlotte overnight on Sundays and on Mondays, the day on which the Employer seeks to schedule a manual election in this case. Although the Employer’s counsel implied in cross-examination of the Petitioner’s witness that the Employer could arrange the drivers’ schedules to ensure that the drivers would be on site for a manual election, the Board has not looked with approval on such alteration of drivers’ usual schedules simply to accommodate a manual election. *See London’s Farm Dairy, Inc.*, 323 NLRB 1057 (1997) (mail ballot election preferable where the employer would have to significantly alter the work schedule of a substantial number of employees to allow them to vote in a manual election); *see also GPS Terminal Services, Inc.*, 326 NLRB 839, 840 (1998) (Chairman Gould, concurring) (“while not improper, the message sent to employees is that their ability to vote is predicated on a different work schedule over which they have no control”).

Under the circumstances of this case, then, in the interest of the safety of the voters, observers, and party representatives, and in order to ensure that the bargaining unit employees have the best opportunity to vote, I order a mail ballot election.

V. CONCLUSION

Based upon the entire record in this matter, and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹³
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time drivers and yard spotters of the Employer at its facility located at 5100 West W.T. Harris Blvd. in Charlotte, North Carolina; excluding all other employees, managerial employees, office clerical employees, temporary employees, and guards and supervisors as defined by the Act.

6. The parties stipulated, and I so find, that there is no history of collective bargaining between these parties in the proposed bargaining units identified above, and there is no contract or other bar in existence to an election in this case.

VI. DIRECTION OF ELECTION

The National Labor Relations Board will conduct secret-ballot elections among the employees in the units found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by **International Brotherhood of Teamsters, Local 71**.

A. Election Details

I have determined that a mail ballot election will be held. The ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 2:00PM on **Wednesday**,

¹³ The parties stipulated to the following commerce facts:

The Employer, SSB Manufacturing Company, a Delaware corporation with an office and place of business in Charlotte, North Carolina, is engaged in the business of producing and delivering mattresses, including at its facility located at 5100 West W.T. Harris Blvd., Charlotte, North Carolina 28269, the only location involved in this proceeding. During the past 12 months, the Employer, in conducting its business operations described herein, purchased and received at its Charlotte, North Carolina facility goods valued in excess of \$50,000 directly from points outside the State of North Carolina.

May 5, 2021, ballots will be mailed to voters from the National Labor Relations Board, Region 10.

Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **May 12, 2021**, should communicate immediately with the National Labor Relations Board by either calling the Region 10, Subregion 11 Winston-Salem Office at (336) 631-5201 or our national toll-free line at 1-844-762-NLRB (1-844-762-6572).

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 10, Subregion 11 Winston-Salem office by close of business on Tuesday, May 25, 2021. All ballots will be commingled and counted at Region 10, Subregion 11 Winston-Salem Office at **10:00AM on Wednesday, May 26, 2021**, by way of videoconference. In order to be valid and counted, the returned ballots must be received by the Region 10, Subregion 11 Winston-Salem Office, prior to the counting of the ballots.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending April 17, 2021, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Wednesday, April 28, 2021**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: April 26, 2021



LISA Y. HENDERSON
ACTING REGIONAL DIRECTOR
Region 10
National Labor Relations Board
Peachtree Summit Federal Building
401 W. Peachtree Street, NE
Suite 2201
Atlanta, GA, 30308